

thereunder when making the substitution of labels on fur products as provided for in Section 3(e) of the said Act.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

IN THE MATTER OF

LINCOLN LUGGAGE COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-100. Complaint, Mar. 23, 1962—Decision, Mar. 23, 1962

Consent order requiring New York City luggage manufacturers to cease such misrepresentations as stating falsely on attached tags that their luggage was "Flight tested by TWA", that their Zephyrlite line was "Nationally advertised", and that "We chose Alcoa Aluminum" when their products contained no aluminum except for affixed strips of aluminum foil simulating aluminum.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Lincoln Luggage Company, Inc., a corporation, and Harry B. Silverman and Herbert Silverman, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act,

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and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Lincoln Luggage Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 18 West 18th Street, New York, N.Y.

Respondents Harry B. Silverman and Herbert Silverman are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture, advertising, offering for sale, sale and distribution of luggage of various kinds to retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped and transported from their place of business in the State of New York to purchasers thereof located in the various other states of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, as aforesaid; and for the purpose of inducing the sale of their luggage, respondents attach, or cause to be attached, tags to their luggage upon which certain representations are made about the construction of, and materials used in, said luggage. Among and typical of the statements and representations appearing thereon, and others of similar import and meaning but not specifically set forth herein, are the following:

- (a) Flight tested by TWA.
- (b) Another famous Lincoln product flight tested and approved by TWA Airlines.
- (c) Nationally advertised Zephyrlite.
- (d) We chose Alcoa Aluminum. Aluminum Company of America.

PAR. 5. Through the use of the foregoing statements and representations and others of similar import and meaning but not specifically set out herein, respondents have represented, and do now represent, directly or by implication:

- (a) That the luggage manufactured by the respondents to which was attached the tags bearing the words set forth in paragraphs 4(a)

and 4(b), above, had been tested and approved by Trans World Airlines for use in airplane travel.

(b) That the luggage known as "Zephyrlite" was currently being advertised throughout the United States.

(c) That the luggage manufactured by the respondents, to which was attached a tag bearing the words set forth in paragraph 4(d) above is composed of solid aluminum or contains aluminum in significant quantities.

PAR. 6. Said statements and representations were false, misleading and deceptive. In truth and in fact:

(a) No luggage manufactured by the respondents has ever been tested or approved by Trans World Airlines, and the use of statements set forth in paragraphs 4(a) and 4(b) has never been authorized by said Trans World Airlines.

(b) The luggage known as "Zephyrlite" is not currently advertised nationally.

(c) The luggage manufactured by the respondents, to which was attached a tag bearing the words set forth in paragraph 4(d), above, contains no aluminum except that there is affixed to the said luggage longitudinal strips of aluminum foil encased in plastic and made to simulate solid aluminum.

PAR. 7. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with other corporations, firms and individuals in the sale of products of the same general kind and nature as that sold by respondents.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5(a)(1) of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having

been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent, Lincoln Luggage Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 18 West 18th Street, New York, N.Y.

Respondents Harry B. Silverman and Herbert Silverman are officers of said corporation and their address is the same as that of said corporation.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That the respondent, Lincoln Luggage Company, Inc., a corporation, and its officers, and respondents Harry B. Silverman and Herbert Silverman, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the manufacturing, advertising, offering for sale, sale and distribution of luggage, or related products, in commerce, as "commerce" is defined by the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That any such product sold by respondents has been tested and approved by Trans World Airlines or by any other concern.

2. That any such product sold by the respondents is currently being nationally advertised.

3. That any such product sold by respondents is composed of solid aluminum or contains aluminum in significant quantities or otherwise misrepresenting the nature and type of material used in their products.

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It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF

BARNETT & WEITZNER, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS

Docket C-101. Complaint, Mar. 23, 1962—Decision, Mar. 23, 1962

Consent order requiring New York City manufacturing furriers to cease violating the Fur Products Labeling Act by falsely labeling and invoicing artificially colored fur as natural, failing to disclose on labels and invoices when fur products were bleached or dyed, and to label and invoice as natural, products which were not artificially colored; setting forth on labels the name of an animal other than that producing the fur; and failing in other respects to comply with labeling and invoicing requirements.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Barnett & Weitzner, Inc., a corporation, and Joseph Barnett, and Adolph Weitzner, individually and as officers of the said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Barnett & Weitzner, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 345 Seventh Avenue, New York 1, N.Y.

Individual respondents Joseph Barnett and Adolph Weitzner are president and treasurer, respectively, of the corporate respondent. Said individuals cooperate in formulating, directing and controlling the acts, policies and practices of the corporate respondent including

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the acts and practices hereinafter referred to. Their office and principal place of business is the same as that of the said corporate respondent.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, and more especially since 1954, respondents have been and are now engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale, in commerce, and in the transportation and distribution, in commerce, of fur products; and have manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce" "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were misbranded in that they were falsely or deceptively labeled or otherwise falsely or deceptively identified to show that the fur contained therein was natural when, in fact, such fur was bleached, dyed, or otherwise artificially colored, in violation of Section 4(1) of the Fur Products Labeling Act.

PAR. 4. Certain of said fur products were misbranded in that they were not labeled as required under the provisions of Section 4(2) of the Fur Products Labeling Act in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

Among such misbranded fur products, but not limited thereto, were fur products with labels which failed to disclose that the fur contained in the fur products was bleached, dyed, or otherwise artificially colored, when such was the fact.

PAR. 5. Certain of said fur products were misbranded in the labels affixed thereto set forth the name of an animal other than the name of the animal that produced the fur, in violation of Section 4(3) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

PAR. 6. Certain of said fur products were misbranded in violation of the Fur Products Labeling Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in that fur products which were not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored were not described as natural, in violation of Rule 19(g) of the said Rules and Regulations.

PAR. 7. Certain of said fur products were falsely and deceptively invoiced by the respondents in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act and in the

manner and form prescribed by the Rules and Regulations promulgated thereunder.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were invoices pertaining to such fur products which failed to disclose that the fur contained in the fur products was bleached, dyed, or otherwise artificially colored when such was the fact.

PAR. 8. Certain of said fur products were falsely and deceptively invoiced by the respondent in that said fur products were invoiced to show that the fur contained therein was natural when, in fact, such fur was bleached, dyed, or otherwise artificially colored, in violation of Section 5(b) (2) of the Fur Products Labeling Act.

PAR. 9. Certain of said fur products were falsely and deceptively invoiced in violation of the Fur Products Labeling Act in that they were not invoiced in accordance with the Rules and Regulations promulgated thereunder in that fur products which were not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, were not described as natural, in violation of Rule 19(g) of the said Rules and Regulations.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act and the Fur Products Labeling Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Barnett & Weitzner, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 345 Seventh Avenue, in the city of New York, State of New York.

Respondents Joseph Barnett and Adolph Weitzner are officers of said corporation and their address is the same as that of said corporation.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Barnett & Weitzner, Inc., a corporation, and its officers, and respondents Joseph Barnett and Adolph Weitzner, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising, or offering for sale, in commerce, or the transportation or distribution in commerce, of fur products; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of fur products which are made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

A. Failing to affix labels to fur products showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.

B. Representing directly or by implication that the fur contained in fur products is natural, when such is not the fact.

C. Setting forth on labels attached to fur products the name or names of any animal or animals other than the name of the animal producing the fur contained in the fur product as specified in the Fur Products Name Guide, and as prescribed under the Rules and Regulations.

D. Failing to describe fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, as natural.

2. Falsely or deceptively invoicing fur products by:

A. Failing to furnish invoices to purchasers of fur products showing in words and figures plainly legible all the information required to

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be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

B. Representing directly or by implication that the fur contained in fur products is natural, when such is not the fact.

C. Failing to describe fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, as natural.